

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ANDRE J. TWITTY,

Plaintiff,

vs.

**E.A. STEPP, TERRY S. BAKKE, DR.
LEE, PHYSICIAN ASST. CAIRDS, G.L.
HERSCHBERGER, N.L. CONNER,
ASSOCIATE WARDEN NITCHOLS,
JUDITH THARP, HEATH SERVICE
ADMINISTRATOR OXFORD,
ASSOCIATE WARDEN BEZY,
PHYSICAN ASSISTANT MILLER,**

Defendants.

No. 03-CV-779-DRH

ORDER

HERNDON, District Judge:

On August 29, 2005, this Court adopted a Report and Recommendation (the "Report") in the above-captioned matter filed by U.S. Magistrate Judge Philip M. Frazier pursuant to **28 U.S.C. § 636(b)(1)(B)**. (Doc. 56.) The Court did not take a de novo review because it believed the Plaintiff had failed to object to Magistrate Judge Frazier's Report within the time prescribed by **Local Rule of the Southern District of Illinois 73.1**, under which parties have ten days to serve and file written objections to Reports. (Doc. 56.) Plaintiff appealed. (Doc. 57.)

As it turns out, Plaintiff did file a timely objection to Magistrate Judge Frazier's Report. Due to a docketing error, however, the Court did not become

aware of this document's existence until this week.¹ At this point, because Plaintiff has filed an appeal, the Court has no jurisdiction over this matter. The Court indicates, however, that if the Seventh Circuit will dismiss Plaintiff's appeal and remand the case to this Court, this Court will review and consider Plaintiff's objections.

IT IS SO ORDERED.

Signed this 17th day of October, 2005.

/s/ David RHerndon
United States District Judge

¹ Indeed, Plaintiff's original objection, received by the Clerk's officer on August 22, 2005, remains, as of this date, undocketed.